



DEPARTMENT OF AGRICULTURE

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**Fresno County Enforcement Multi-Year Work Plan
2010 -2011**

RESOURCES

In FY 2008/2009 Fresno County Department of Agriculture personnel expended 73,403 hours performing pesticide enforcement activities in the county's Pesticide Regulatory Program (PRP). In fiscal year 09/10, 3,166 Restricted Materials Permits were issued and 12,007 Notices of Intent (NOI's) were approved. One deputy agricultural commissioner, one investigator, 28 licensed staff (2 of these Agricultural/Standards Specialists work 6 months in the Glassy-winged Sharpshooter Treatment Program and the supervisor commits 2 hours per day to the program), one systems and procedures analyst, two office assistants, two data entry operators will *support* the Fresno County PRP in 2010. This is the minimum number of full-time staff needed for normal or expected workload. There were significant program changes due to budget constraints in fiscal year 09/10. Fresno County discontinued offering continuing education (CE) classes to the approximately 2,800 Private Applicator Certificate holders in the county. The department has historically offered between 20 to 80 CE classes annually since 1997. The department was also forced to dissolve 4.5 licensed staff involved in pesticide use enforcement activities. Two and one-half of those positions were full-time Environmental Protection Division staff members and the other two and one half were district positions. The department was able to hire extra-help to continue to digitize the county's 19,854 sites. The goals set forth in this multi-year work plan may be adjusted due to personnel and fiscal constraints. When an adjusted is to be made, a written addendum with the adjustments will be provided to DPR Enforcement Branch Liaison.

ORGANIZATION

The Fresno County Department of Agriculture is organized in a division/districts arrangement.

Districts:

The County is currently divided into 7 geographical regions known as "districts" (Firebaugh, Kerman, Huron, Selma, Reedley, Sanger and Fresno). In each district there is an office staffed with a Supervising Agricultural/Standards Specialist and from 1 to 4 licensed Agricultural/Standards Specialists. Each office is responsible for all of the regulatory activities that the agricultural commissioner's are responsible for, within their geographic boundaries with the exception of Weights and Measures and Apiary functions. The Supervising Agricultural/Standards Specialist is responsible for staff assignment within their district to the various departmental functions. For the pesticide regulatory program (PRP) area, district staff conducts all pesticide pre-application inspections, use monitoring inspections, fieldworker inspections, audits, investigate complaints, reports of loss and conduct pesticide illness investigations. All but the Fresno district office also reviews Restricted Materials Permit (RMP) applications, issues or denies restricted material permits with permit conditions and issues Operator Identification Numbers (OIN).

Division: Environmental Protection and Pest Management Division

The main office located in Fresno is staffed with personnel assigned to specific program functions. There is a Supervising Agricultural/Standards Specialist and a staff of 2.5 licensed Agricultural/Standards Specialists responsible for supporting district staff when they are involved in the PRP area. The division also registers pest control businesses, pest control advisors, pilots, and farm labor contractors. RMP's and OIN's are issued and use reports entered and filed. The division exclusively evaluates and conditions RMP's for methyl bromide and sulfuryl fluoride commodity fumigations. A majority of the methyl bromide field fumigation permits are evaluated, conditioned and issued by the division.

Within this function the department has the following personnel assignments:

Deputy Agricultural Commissioner – Environmental Protection and Pest Management

The Deputy is responsible for administration of the PRP. In addition to this assignment, the Deputy is also responsible for: Weights and Measures Division, Apiary, performs public speaking engagements as well as various administrative functions. The PRP Deputy is also involved in special projects such as homeland security as it relates to agriculture, response to agricultural emergencies, livestock carcass disposal, Avian Influenza, and staff development and training. This Deputy also serves as a hearing officer for departmental administrative civil penalty hearings involving Weight's and Measures cases. Approximately 1/3 of the deputy's time is spent on PRP. The deputy oversees the activities of two supervisors in the Environmental Protection and Pest Management Division, one supervisor assigned to the Fresno District office, the Agricultural/Standards Investigator and one Systems and Procedures Analyst who is responsible to maintain the computer hardware and the various operating systems in the department as well as supporting the Restricted Materials Management System (RMMS).

Supervising Agricultural/Standards Specialist – Environmental Protection/Pest Management

The Supervising Agricultural/Standards Specialist supervises a staff of 3 Agricultural/Standards Specialists, two office assistants, and two data entry personnel. This staff is responsible for permit issuance, PCO, PCA, Pilot, SPCB and FLC registrations, compiling the PRAMR, monitoring research authorizations, tracking the use of Section 18 materials, use report review, providing continuing education classes upon industry request, giving presentations for various public speaking events and district staff support. This supervisor oversees staff that is responsible for maintenance of all RMP/OIN's, use report filing, filing NOI's, and other PRP records and files. Staff will perform various pesticide use monitoring inspections and audits when time allows. This group is also responsible for administering private applicator certificate and structural applicator licensing exams. One hundred percent of this staff time is dedicated to PRP functions.

Agricultural/Standards Investigator

The Agricultural/Standards Investigator (Investigator) is responsible for coordinating the pesticide illness investigations, complaints and Reports of Loss, Nonperformance or Damage submitted to the department. The Investigator coordinates the investigations while assisting district staff. The Investigator prepares all enforcement actions and serves as the advocate during any administrative civil penalty hearings. The Investigator maintains all files of investigations completed. The Investigator also serves these same functions for other divisions of the department. Approximately 75 percent of the Investigator's time is devoted to PRP.

Supervising Agricultural/Standards Specialist – Fresno District

This Supervising Agricultural/Standards Specialist supervises three Agricultural/Standards Specialists. This group is responsible for field enforcement of pesticide activities (predominantly structural pest control) in the Fresno/Clovis Metropolitan Area, respond to all complaints and perform all pesticide illness investigations within this geographic area. Many of the county's approximately 650 Southeast Asian specialty crop growers are found in this area. This individual is also responsible for apiary regulatory activities county wide, and the Glassy-winged Sharpshooter Treatment Program. Approximately 90 percent of the supervisor's time – 50 percent of two Agricultural/Standards Specialist's time and 90 percent of the other Agricultural/Standards Specialists time – is devoted to PRP activities.

Computer Coordinator (Systems and Procedures Analyst)

The Computer Coordinator is responsible for supporting the Restricted Materials Management System (RMMS) and overseeing the digitizing of the county's 19,854 sites. This position also responds to public records requests for computer data and information required by other divisions and coordinates electronic submission of use reports. The department is also striving toward digitizing all sites related to RMP's and OIN's.

2010 CORE ENFORCEMENT PROGRAM

A. Restricted Materials Permitting

Permit Evaluation-Process Evaluation and Improvement Planning

Permit Evaluation

Restricted Materials Permits (RMP's) are issued to the operator of the property to be treated. They are signed by the permittee or authorized representative (3CCR Section 6420). They are site and time specific. They are issued for a period of up to three years for perennial crops and one year for annual crops. RMP's are issued using the *Restricted Materials Management System* (RMMS) and are issued on an approved form. Pest Control Advisors (PCAs) and growers indicate they have considered feasible, reasonable, and effective mitigation measures when using pesticides that require permits. Permit applications are documented on an approved form with all applicable required information (3CCR, Section 6428) and are completed by certified staff. Non-ag permit applications are documented on an approved form with all applicable required information (Section 6430) and completed by licensed staff. Permits are evaluated to determine if a substantial adverse environmental impact may result at the time of issuance or when the notice of intent is received. All required *sensitive site* locations are indicated on maps included in the permit application. These maps indicate locations of environmentally-sensitive areas. Permit maps are compared to a master map of environmentally-sensitive areas and evaluated for possible adverse environmental impact. Feasible alternatives to restricted pesticides are considered and implemented when appropriate. A permit or NOI is denied or conditioned recognizing and utilizing appropriate mitigation measures. Appropriate mitigation considerations include knowledge of local conditions, pest management guidelines, restricted material hazard chart, local permit conditions using California Code of Regulations (including Sections 6443 and 6450 through 6489).

Permits indicate the name of the certified private or commercial applicator responsible for the supervision of the application of restricted materials named on the permit. Fresno County

Department of Agriculture has implemented a policy (effective since 2001) that anyone applying for a RMP or to take a Private Applicator Certificate (PAC) exam, must present a valid picture identification card to verify their person before being issued the above. For private applicators, staff verifies that the certificate presented is current. Staff renews certificates based on completion of adequate hours of continuing education or the successful completion of the private applicator examination. The provision of continuing education for private applicators is essential in assuring that private applicators are adequately qualified to supervise the use of restricted materials. Recognizing that the department's presence in both the field and in the continuing education setting is paramount to a successful enforcement program, staff is involved in giving presentations for providers of continuing education.

Licensed staff throughout the department will be required to attend an annual restricted materials issuance training prior to issuing permits for the 2010 calendar year. This will assure uniformity of permit issuance in Fresno County as well as assuring that RMP's are issued per the Pesticide Use Enforcement Program Standards Compendium Volume 3: Restricted Materials and Permitting compiled by the California Department of Pesticide Regulations (CDPR). (Many of the licensed staff who issue permits were required to attend the Restricted Materials and Permitting class sponsored by the CDPR in 2006).

Goals

Sensitive Site Identification

Improve identification of sensitive sites as identified in Food and Agriculture Code 14006.5 through the use of ArcView 3.2.

The intent is to greatly enhance the accuracy of maps affiliated with RMP's to ensure appropriate sensitive sites are indicated and readily identifiable. Hiring an individual trained to perform this task is critical to ensuring that this project which has begun is finished and maintained. An effort will continue to search for additional funding to support this goal.

Site Monitoring

The NOI (Section 6434) is recorded on appropriate form and includes required information (Section 6434) including, but not limited to: Date of intended application, site and permit number, method of application including dilution, volume per acre, dosage, name of pest control business (if applied by a PCB) and the operator of the property that is using the pesticide. The NOIs can be faxed in, deposited in one of 40 drop boxes placed throughout the county, submitted in person, or submitted via the CEDTS or other authorized programs. Notices received in a district other than the district of intended application are forwarded to the appropriate district via fax. The NOI is submitted at least 24 hours prior to start of application by the appropriate person. NOIs submitted with less than 24-hour notice are approved if the commissioner determines, due to the nature of commodity or pest problem, effective control cannot be obtained if the application is delayed or that 24 hours are not necessary to adequately evaluate the intended application. All requests for waiver of the 24-hour requirement come in via telephone and are considered on a case-by-case basis in consultation with the district enforcement staff. For the use of all field fumigants a 96-hour NOI is required so as to give staff adequate time to evaluate all sensitive site applications. Licensed staff monitor permits as required in Section 6436. A minimum of five percent of the sites identified in permits or NOIs are monitored. Monitoring will include evaluation of the basis for the intended application (including toxicity of material), environmental concerns (i.e., endangered species, buffer zone areas, ground water protection areas), problem areas identified from previous years, Section 18 registrations, and the written recommendation. All non-ag permit holder applications are inspected once a year.

RESOURCES

County Resources

The Fresno County Agricultural Commissioner will require permits for the use of contact and systemic herbicides on the Westside of the county in 2010. This will require the addition of these materials to Westside permits and create possibly 2,000 additional NOIs.

- Workload expectations for 2010 include: Approximately 750 OIN's, 3,500 Restricted Materials Permits, and 16,000 NOIs.

Permit Guidance – Only Agricultural/Standards Specialists licensed by the state may issue permits. Training to issue permits is performed on several levels. The DPR Liaison reviews permits during the evaluation process for inaccuracies and areas in need of improvement. The Deputy Agricultural Commissioner addresses these inaccuracies during training sessions, staff meetings and individually. The Deputy Agricultural Commissioner and Supervising Agricultural/Standards Specialists train Agricultural/Standards Specialists using established procedures, forms and documents prepared by both state and county.

Corrective Actions – Deficiencies documented in the previous effectiveness evaluations indicated a failure in some cases to conduct an annual evaluation of the pesticide use of non-agricultural permittees. A permit condition has been included for all non-agricultural permittees requiring them to contact the department prior to their first scheduled use of restricted materials to schedule an inspection. Compliance or Enforcement Actions will be taken on those who did not abide by the Commissioner's conditions. Further, there is a need to improve the quality of maps associated with permits. Resources permitting, the department intends to expand its use of GIS to: 1) Continue building and maintain a crop data layer in GIS and, 2) continue to include GIS-based maps in 2009 restricted material permits as resources allow.

Goals and Objectives

Fresno County is committed to continue its practice of issuing high quality, accurate and appropriate restricted materials permits.

Deliverables

- Follow laws, regulations and DPR guidelines
- Issue permits
- Evaluate all permits for adverse environmental impacts
- Approve, deny, condition permits as necessary
- Record and evaluate NOIs
- Review permits for completeness and accuracy
- Address problem areas with training, timelines and follow-up reviews

Measure of Success

- Annually evaluate permitting process for deficiencies
- Review permits, non-compliances, Report 5 data, discuss with licensed staff and DPR Enforcement Branch Liaison (EBL).
- Develop a plan of action to address identified deficiencies or areas of concern identified through external (DPR) or internal program review.

Pesticide Site Monitoring Plan Development

Goals and Objectives

Fresno County is committed to continue to ensure a site monitoring plan that takes into consideration pesticide hazards, local conditions, weather patterns, cropping and field work patterns, and compliance histories.

Deliverables

Pre-application site inspections totaling at least five percent of NOIs received. To the extent possible, review all NOIs and compare to permit to confirm that permit and NOI are accurate.

Prioritize selections of NOI for pre-application evaluation to:

1. Maximize attention to materials of concern.
 - A. Fumigants
 - B. Section 18 materials
 - C. Any other restricted materials designated by DPR
2. Maximize attention to areas of concern.
 - A. Application near sensitive sites such as schools, hospitals, labor camps, residential areas and other areas designated by the commissioner.
 - B. Application of materials near environmentally-sensitive sites such as rivers, lakes, streams, and endangered species habitat.
 - C. Application of herbicides and defoliants near sensitive crops
3. Avoid multiple inspections of applicators with good compliance history.
4. Maximize attention to those applicators rarely inspected.
5. Follow-up any non-compliance to assure future compliance.

Measure of Success

1. Attainment of five percent goal of pre-application evaluations
2. High percentage of inspections for areas and materials of concern
3. Effective follow-up to violations enhancing the opportunity for future compliance.

B. COMPLIANCE MONITORING

Comprehensive Inspection Plan

The current compliance monitoring program strengths are:

1. Enforcement districts are assigned to Agricultural/Standards Specialists allowing them to become intimately familiar with pesticide usage, cropping patterns and growers, Pest Control Businesses (PCBs), Pest Control Advisors (PCAs) and dealers in those areas.
2. Permits are issued in each district by local staff. NOIs are delivered to the district where the application will take place. District staff are able to apply their local knowledge gained through years of experience to prioritize inspections and apply appropriate conditions.
3. Increased compliance monitoring activities at sites near areas identified to be environmentally sensitive such as schools, daycare centers, wildlife areas, waterways and sensitive crops.
4. A quarterly review of inspection and non-compliance data effectively identifying non-compliances during the year.
5. An increase in the amount of Southeast Asian inspections to continue outreach efforts and identify non-compliances.

Areas identified as needing improvement are:

1. Since district Agricultural/Standards Specialists are responsible for all departmental functions within a geographical area, workload peaks in other program areas prevent continuous pesticide enforcement activities during peak load times of the year. It is important to assure that other areas of responsibility that create workload do not interrupt a continuous PRP presence.
2. As all department functions become more specialized and complex, it becomes increasingly difficult for staff to remain proficient in all areas of responsibility.

Goals/Objectives

To increase compliance with regards to pesticide laws and regulations within Fresno County. Special focus will be placed on areas of non-compliance identified during inspections.

Deliverables

1. When violations are discovered during application inspection activities, follow-up inspection will be performed to avoid continued non-compliance.
2. Make a good faith effort to continue to improve the quality of inspections and investigations performed.

Based on our inspection program evaluation the following inspection goals were determined:

I. PESTICIDE USE MONITORING INSPECTIONS

A. Pre - application	5% (minimum) (12,007 received in 08/09)
B. Applications - Property Operator	550
Applications - PCO	200
C. Field Fumigation	70
D. Commodity Fumigation	70
E. Field Worker Safety	90
F. Mix/Load - Property Operator	130
Mix/Load - Pest Control Business	75

II. PEST CONTROL RECORDS INSPECTIONS

A. Business Records	35
B. Business HQ/Employee Safety	35
C. Dealer Records	20
D. Advisor Records	60
E. HQ/Employee Safety - Grower	60
F. HQ/Employee Safety - Other (parks, schools, etc.)	15

III. STRUCTURAL PEST CONTROL INSPECTIONS

A. Fumigations - Branch 1	80
B. Applications - Branch 2	80
Applications - Branch 3	10
C. Mix/Loads - Branch 2	10
D. HQ/Employee Safety/Business Records	25
E. Business Records	25

Though these goals are currently attainable, multiple factors can influence whether or not they are attained. Complaint and illness investigations take priority over routine inspection activities. Should there be any increase in investigations, the number of compliance monitoring inspections will decrease. Unanticipated workload in other departmental program areas, such as a new pest of quarantine significance, or any change in phytosanitary export requirements may also affect staff availability to conduct compliance monitoring inspections. The department currently has nine unfilled permanent positions. It is anticipated that during the 2010/2011 fiscal year that additional retirements will occur. All of this affects our ability to meet inspection goals. Our emphasis this year will be to concentrate on the quality of inspections and investigations conducted and proper follow-up. Staff training in investigative techniques and report writing will be arranged with our Enforcement Branch Liaison (EBL). Department management and DPR liaison will continue to identify staff training needs and conduct training to enhance program quality as time permits.

To address the problem of staff unavailability due to competing demands for services the following will be implemented:

Each district supervisor will prepare a plan as to how they intend to address PRP workload within the bounds of their district. This plan will:

1. Give a summary of the annual cycle of pesticide use activities within the district.
2. Identify how personnel will be allocated to address PRP activities when:
 - a. Competing workload inhibits routine PRP activities
 - b. Address PRP workload needs during off-hours

In addition, each supervisor is required to notify the Deputy responsible for the PRP in the event that competing workload prevents staff from conducting PRP inspection work. The deputy will then attempt to re-direct resources from other districts or assign division staff to cover the PRP workload in that impacted district.

Measure Success

Although the overall program goal is to increase compliance with pesticide laws and regulations, the number of non-compliances noted can't be used as a measure of success. As the department strives to improve the quality of inspections completed, the number of non-compliances noted may, in fact, increase. Success should be measured by our commitment to improve program process and improve compliance on a case-by-case basis. Improved compliance through proper follow-up, education, and appropriate enforcement and compliance actions with individual property operators and pest control businesses will be our measure of success.

C. ENFORCEMENT RESPONSE

Goal

To help ensure a comprehensive and effective statewide pesticide regulatory program by applying the department's enforcement authority fairly, consistently and swiftly creating a climate that compels pesticide users to comply with state laws and regulation through a program of "progressive discipline."

Resources

The department has one full-time Agricultural/Standards Investigator that is responsible to identify non-compliances found during the course of investigations and inspections.

Enforcement Response Evaluation

The results of all inspections are entered into a database maintained by the department. In addition, all notices of violation are also entered into a database. As a backup all inspections with non-compliances are copied and forwarded to the Investigator. On a monthly basis, taking into account all non-compliances noted during inspections, illness and other investigations and notices of warning and/or violations, the Investigator conducts a review and analysis. All non-compliances noted are categorized and evaluated in accordance with the enforcement response regulations (ERR). The Investigator and Deputy work closely by discussing all investigations (determining non-compliances) and inspections where non-compliances have been identified by staff. Where warranted, the Investigator either prepares a Decision Report or develops a draft Notice of Proposed Action (NOPA) and presents it to the Deputy for review. If an Administrative Civil Penalty (ACP) is warranted, the fine amount is determined utilizing Section 6130 of the California Code of Regulations. If the Commissioner concurs, appropriate enforcement action is taken. In the event a hearing is requested pursuant to the NOPA, the Investigator serves as the Commissioner's advocate and presents the case to the hearing officer. The Commissioner will also consider referral to the district attorney when appropriate.

Deliverables

Continue to apply enforcement guidelines to non-compliances noted and take appropriate enforcement or compliance action within applicable statutes of limitation.